

Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 057163

70

ORIGIN L-03

INFO OCT-01 ARA-06 ISO-00 IO-11 EB-07 TRSE-00 SEC-01

OPIC-03 XMB-02 AGR-05 CEA-01 CIAE-00 COME-00 DODE-00

FRB-03 H-02 INR-07 INT-05 LAB-04 NSAE-00 NSC-05 PA-01

AID-05 CIEP-01 SS-15 STR-04 ITC-01 PRS-01 SP-02

OMB-01 NSCE-00 SSO-00 USIE-00 INRE-00 FEA-01 /098 R

DRAFTED BY L:MBFELDMAN:JB

APPROVED BY IO/CMD:PWYMAN

EB/IFD/OIA - E. CONSTABLE

TREAS. - J. LANGE (SUBS)

IO/CMD:WWOODBURY

----- 062052

O 092122Z MAR 76

FM SECSTATE WASHDC

TO AMEMBASSY LIMA IMMEDIATE

LIMITED OFFICIAL USE STATE 057163

E.O. 11652: N/A

TAGS: OCON, EFIN, ECOSOC, PE

SUBJECT: US PROPOSAL FOR INTERNATIONAL AGREEMENT ON
BRIBERY

REF: LIMA 2219

1. WE BELIEVE THAT UNTNC HAS COMPETENCE TO SET UP WORKING
GROUP TO ESTABLISH TEXT OF AN INTERNATIONAL AGREEMENT ON
CORRUPT PRACTICES BY VIRTUE OF ITS BROAD MANDATE AND UN
RESOLUTION ON CORRUPT PRACTICES. WE SHOULD TAKE THIS VIEW

STRONGLY TO PRESERVE OUR POSITION THAT UNTNC HAS COMPETENCE
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 057163

TO DEAL WITH VARIOUS ASPECTS OF TNC RELATED ISSUES, IN-

CLUDING RESPONSIBILITIES OF GOVERNMENTS AND INTERNATIONAL
TRADE ASPECTS. USDEL SHOULD STRESS THAT SERIOUS EFFORT
TO DEAL WITH TNC ISSUES REQUIRES CONSIDERATION OF
BOTH INTERGOVERNMENTAL AGREEMENT ON CORRUPT PRACTICES
AND CODE ADDRESSED TO TNCS. CORRUPT PRACTICES, A MAJOR
AREA OF PUBLIC CONCERN, CANNOT BE DEALT WITH EFFECTIVELY
BY A CODE. THEREFORE, U.S. WOULD HAVE SERIOUS RESERVATIONS
ABOUT A UN CODE EXERCISE WITHOUT PARALLEL WORK ON A
CORRUPT PRACTICES AGREEMENT.

2. ECOSOC RESOLUTION 1437, PARA 6, ASKS THE COMMISSION TO
MAKE RECOMMENDATIONS ON WAYS AND MEANS WHEREBY CORRUPT
PRACTICES OF TNC'S CAN BE EFFECTIVELY PREVENTED. OBVI-
OUSLY ONE ESSENTIAL MEASURE TO PREVENT SUCH PRACTICES IS
FOR GOVERNMENTS TO ESTABLISH LAWS PROHIBITING BOTH THE
OFFER AND THE ACCEPTANCE OF BRIBES AND PUNISHING BOTH
CORPORATIONS AND OFFICIALS. IT IS UNTENABLE TO CONCLUDE
THAT COMMISSION LACKS THE COMPETENCE TO RECOMMEND SUCH
MEASURES OR TO PREPARE A TREATY AUTHORIZING OR
REQUIRING SUCH ACTIONS.

3. ECOSOC RESOLUTION 1913 REFERS TO "FULL RANGE OF
ISSUES RELATING TO ACTIVITIES OF TRANSNATIONAL CORPORA-
TIONS" (PREAMBLE), "ISSUE OF TRANSNATIONAL CORPORATIONS"
(PARA L), "FIELD OF TRANSNATIONAL CORPORATIONS" (PARA 3),
"ISSUES RELATING TO TNCS" (PARA 3(A)), AND "CODE OF
CONDUCT DEALING WITH TNCS" (PARA 3(E)) ALL OF WHICH WE
HAVE INTERPRETED AS BEING BROAD ENOUGH TO INCLUDE
OBLIGATIONS OF GOVERNMENTS AND NOT TO EXCLUDE TRADE
TRANSACTIONS.

4. IF IT SHOULD NEVERTHELESS PROVE ESSENTIAL TO GET
EXPEDITIOUS WORK ON CORRUPT PRACTICES AGREEMENT UNDER-
WAY, WE COULD RELUCTANTLY ACCEPT CLEAR UNTNC RECOMMENDA-
TION FOR CREATION OF WORKING GROUP UNDER ECOSOC WITH
STATED PURPOSE TO ESTABLISH TEXT OF BRIBERY TREATY. WE
COULD NOT CONCUR IN ANY RESOLUTION OR STATEMENT ENDORSING
THE CONCEPT THAT PERMANENT COMMISSION LACKS COMPETENCE
UNDER EITHER BRIBERY RESOLUTION OR RESOLUTION ESTABLISH-
ING THE COMMISSION TO ENCOMPASS RESPONSIBILITIES OF
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 STATE 057163

GOVERNMENTS WHEN ADDRESSING ACTIVITIES OF CORPORATIONS.
ANY SUCH CONCESSION WOULD FATALLY UNDERMINE BASIC U.S.
POSITION ON WORK ON A CODE OF CONDUCT. ACCORDINGLY,
WE CANNOT REPEAT NOT ACCEPT ALTERNATIVES (1) AND (3)
IN PARA 3 REFTTEL. KISSINGER

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AGREEMENTS, BRIBERY, INTERNATIONAL ORGANIZATIONS, MUTINATIONAL CORPORATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 09 MAR 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: powellba
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE057163
Document Source: CORE
Document Unique ID: 00
Drafter: MBFELDMAN:JB
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760089-0588
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760379/aaaacrpc.tel
Line Count: 112
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 LIMA 2219
Review Action: RELEASED, APPROVED
Review Authority: powellba
Review Comment: n/a
Review Content Flags:
Review Date: 21 JUL 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <21 JUL 2004 by ShawDG>; APPROVED <29 OCT 2004 by powellba>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: US PROPOSAL FOR INTERNATIONAL AGREEMENT ON BRIBERY
TAGS: OCON, EFIN, PE, ECOSOC, INTNC
To: LIMA
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006